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**UNITED STATES DISTRICT COURT**

**DISTRICT OF NEVADA**

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UNITED STATES OF AMERICA,	)	2:11-cr-00279-PMP-CWH
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
GERMAN A. POSADA,	)	
	)	
Defendant.	)	
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**JOINT MOTION TO CONTINUE SENTENCING DATE**

Defendant German A. Posada, by and through his counsel, John Lusk, and Plaintiff, United States of America, by and through its counsel, Daniel G. Bogden, United States Attorney, and Special Assistant United States Attorneys John Scully and Thomas Flynn hereby jointly move for the continuance of the sentencing date of January 23, 2012, until a date convenient to the Court in March of 2012 or thereafter. This continuance is needed due to Defense counsel's intermittent hospitalizations throughout the month of December, 2011, and as recently as the

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1 weekend of January 6<sup>th</sup> through the 9<sup>th</sup> of 2012. After the hospitalization during the first week of  
2 December, 2012, Defense counsel was in rehab for two weeks during which time he had at least two  
3 more hospitalizations. These hospitalizations have prevented Defense counsel from discussing with  
4 the Government and U.S. Probation objections to the Presentence Report, attempting to resolve those  
5 objections, and preparing formal written objections if necessary.  
6

7 DATED this 12 January 2012

8 /s/ John Lusk  
9 JOHN LUSK, ESQ.  
10 Attorney for German Posada

/s/ John P. Scully  
JOHN P. SCULLY  
THOMAS W. FLYNN  
Trial Attorneys  
U.S. Department of Justice  
Washington, D.C.

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

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UNITED STATES OF AMERICA, ) 2:11-cr-00279-PMP-CWH  
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Plaintiff, )  
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vs. )  
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GERMAN A. POSADA, )  
)  
Defendant. )  
\_\_\_\_\_)

**FINDINGS OF FACT; CONCLUSIONS OF LAW**

Based on the pending Stipulation of counsel, and good cause appearing therefore, the Court finds:

1. Defense counsel has been hospitalized a number of times during December, 2011, into January of 2012 and, as a result, has not been able to adequately prepare for the the scheduled sentencing date of January 23, 2012.
2. The parties agree to the continuance sought herein.
3. Denial of this request for a continuance would deny Defendant sufficient time to prepare for the sentencing hearing, taking into account the exercise of due diligence.
4. Additionally, denial of this request for continuance could result in a miscarriage of justice.

**CONCLUSIONS OF LAW**

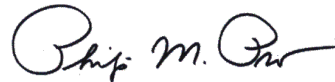
1. The ends of justice served by granting said continuance outweigh the best interest of the public and the Defendant, since the failure to grant said continuance would be likely to result in a miscarriage of justice, and would deny the Defendant herein sufficient time and the opportunity within which to be able to prepare for sentencing, taking into account the exercise of due diligence.

**ORDER**

IT IS THEREFORE ORDERED that the sentencing hearing currently scheduled

1 for January 23, 2012, at the hour of 11:00 a.m., be vacated and continued to  
2 \_Monday, April 9, 2012, at 2:30 p.m.

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4 DATED this \_13th day of January, 2012.

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7 PHILIP M. PRO  
8 United States District Judge  
9 District of Nevada  
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